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			ART UNIT 2611	PAPER NUMBER 7

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/500,307

Applicant(s)

SCHAFFER ET AL.

Examiner

Vivek Srivastava

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-26 and 29-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-26 and 29-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Arguments

Applicant argues that the prior art, in particular, Girard fails to disclose the claimed as amended, in particular, fails to disclose to display content identifiers of media content, including at least one identifier of content not currently or scheduled to be, available for use. Further Applicant's point out, on page 20, that "When the viewer selects a past program, the system retrieves a stored video data stream of the selected program and transmits it to the viewer's set-top box. (Abstract). This allows the system to offer video on demand of past programs.

The Examiner has considered Applicant's arguments and deems them to be non-persuasive. The list of past programming is not currently or scheduled to be available. Since the user has to select the video stream from the past program listing, the program is not "currently" available, it is provided only upon request. Further, the past program video stream provided is independent of any schedule. VOD programs are programs that must be ordered and are provided via a dedicated channel and not currently or readily available and are independent of a program schedule.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
-

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6-8, 10-12, 18, 20-21, 31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe (5,438,278), in view Williams et al (5,945,988) and Girard.

In regard to Claim 1, Strubbe discloses a media control system (Fig. 1), comprising:
a computer (Fig. 1, interface 5) connected to a data source (Fig. 3, DB1 52) to receive periodic updates of schedule data (DOP data; col. 5, lines 2-7) relating to available media content deliverable through a channel (available via cable; col. 3, lines 35-49 and Fig. 1, cable 2);

said computer being connected to control a delivery of selected media content (select to view; col. 6, lines 28-32) through said channel to a media output device (to TV 40, Fig. 1);

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said computer being connected to a preference data store (Fig. 3, DB2 54) storing preference data indicating media content preferred by a user (storing "like" and "dislike"; col. 5, lines 52-58 and col. 6, lines 39-48);

said computer being connected to a user interface (using overlays; col. 5, lines 29-42) with a display (TV 40) and an input device (remote control 42);

said computer being further programmed to display second identifiers (display DOP record for movie (program); col. 5, lines 29-42) corresponding to said schedule data and/or other media data (from DOP information; col. 5, lines 29-42) corresponding to media items substantially identical to said schedule data (col. 5, lines 29-42), and to accept second input (register input via "like" and "dislike"; col. 5, lines 40-44) indicating multiple ones (indicating "like" or "dislike" for several; col. 5, lines 11-17 and col. 6, lines 46-48) of said second identifiers indicating preferences ("like" or "dislike" preferences; col. 6, lines 46-50) and to store data responsive to said second input (stored in DB2 54; col. 5, lines 52-58) without controlling a delivery of the media content corresponding to said second identifiers responsively thereto (simply stored in DB2 54 (col. 5, lines 52-58) and not used to tune or schedule).

Although Strubbe filters available programs according to the user's preferences, he fails to specifically utilize a computer programmed to select a

subset of said available media content responsively to preference data, to display first identifiers corresponding to a subset and accept first input indicating a one of said first identifiers to be used currently or in the future and to control a delivery of media content responsively to said first input, as claimed.

In analogous art, Williams teaches a computer (controller 104, computer; col. 3, lines 17-18) programmed to select a subset of said available media content responsively to preference data (list of programming suggestions; col. 11, lines 3-27), being programmed to display (first) identifiers (one of the suggested programming options; col. 11, lines 20-30) corresponding to a subset (list of programming suggestions; col. 11, lines 3-21) and accept (first) input (select via I/O device 132; col. 11, lines 23-25) indicating a one of said (first) identifiers to be used currently (chosen program; col. 11, lines 27-30) or in the future (in advance; col. 12, lines 5-14) and to control a delivery of media content responsively to said (first) input (view chosen program (col. 11, lines 27-30), and issue prompt or record for in advance (col. 12, lines 6-10)). This provides the advantage of allowing the system to automatically create a list of customized personalized programming (as suggested in col. 6, lines 28-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Strubbe with utilizing a computer programmed to select a subset of said available media content

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responsively to preference data, to display first identifiers corresponding to a subset and accept first input indicating a one of said first identifiers to be used currently or in the future and to control a delivery of media content responsively to said first input, as taught by Williams, for the advantage of allowing the system to automatically create a list of customized personalized programming.

Strubbe fails to disclose the claimed wherein at least one of the identifiers identifies media content that is not currently, or scheduled to be, available for use. Girard teaches past programming available for use (programming guide 40 displays past programming; col. 4, lines 9-18). This provides the advantage of allowing a subscriber to retrieve a program of interest that is no longer currently available on live broadcasting (col. 2, lines 30-36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Strubbe with generating a list of programs that were scheduled to be available in the past, as taught by Girard, for the advantage of allowing a subscriber to retrieve a program of interest that is no longer currently available on live broadcasting.

In regard to Claim 2, the combined systems of Strubbe and Williams disclose a system as in claim 1, wherein said computer is further programmed to store data responsive to said first input (Williams: system continuously updates

preference information; col. 7, lines 54-57) in said preference store (Strubbe: DB2 54).

In regard to Claim 4, the combined systems of Strubbe and Williams disclose a system as in claim 1, wherein said multiple ones are displayed simultaneously on said display (Strubbe: indicating "like" for several displayed; col. 5, lines 11-17 and col. 6, lines 46-48).

In regard to Claim 6, the combined systems of Strubbe and Williams disclose a system as in claim 1, wherein said second identifiers include video clips (Strubbe: clips; col. 4, lines 5-7 and lines 34-36).

In regard to Claim 7, the combined systems of Strubbe and Williams disclose a system as in claim 1, wherein said second identifiers include narrative descriptions (Strubbe: descriptive information; col. 3, lines 39-42).

In regard to Claim 8, Strubbe discloses a media control system (Fig. 1), comprising a computer (Fig. 1, interface 5) connected to a data source (Fig. 3, DB1 52) to receive periodic updates of schedule data (col. 5, lines 2-7) relating to available media content deliverable through a channel (available via cable; col. 3, lines 35-39 and Fig. 1, cable 2);

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said computer being connected to control a delivery of selected media content (select to view; col. 6, lines 28-32) through said channel to a media output device (to TV 40, Fig. 1);

said computer being connected to a preference data store (Fig. 3, DB2 54) storing preference data indicating media content preferred by a user (col. 5, lines 52-58 and col. 6, lines 39-51);

said computer being connected to a user interface (using overlays; col. 5, lines 29-42) with a display (TV 40) and an input device (remote control 42);

said computer being further programmed to display second identifiers (display DOP record; col. 5, lines 29-42) corresponding to said schedule data and/or other media data (from DOP information; col. 5, lines 29-42) and to accept second input indicating at least one of said second identifiers indicating a preference (register input via "like" and "dislike"; col. 5, lines 40-44) and to store data responsive to said second input (stored in DB2 54; col. 5, lines 52-58), said second identifiers being derived from schedule data (from DOP information; col. 5, lines 29-42) and filtered such that said second identifiers include no redundant entries (col. 6, lines 26-32), redundant entries being entries that are characterized by content that is identical according to at least one criterion other than a time of availability for use (col. 6, lines 26-32).

Although Strubbe filters available programs according to the user's preferences, he fails to specifically utilize a computer programmed to select a subset of said available media content responsively to preference data, to display first identifiers corresponding to a subset and accept first input indicating a one of said first identifiers to be used currently or in the future and to control a delivery of media content responsively to said first input, as claimed.

In analogous art, Williams teaches a computer (controller 104, computer; col. 3, lines 17-18) being programmed to select a subset of said available media content responsively to preference data (list of programming suggestions; col. 11, lines 3-27), to display (first) identifiers (one of the suggested programming options; col. 11, lines 3-21) corresponding to a subset (list of programming suggestions; col. 11, lines 3-21) and accept (first) input (select via I/O device 132; col. 11, lines 23-25) indicating a one of said (first) identifiers to be used currently (chosen program; col. 11, lines 27-30) or in the future (in advance; col. 12, lines 5-14) and to control a delivery of media content responsively to said (first) input (view chosen program (col. 11, lines 27-30), and issue prompt or record for in advance (col. 12, lines 6-10)). This provides the advantage of allowing the system to automatically create a list of customized personalized programming (as suggested in col. 6, lines 28-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Strubbe with utilizing a computer programmed to select a subset of said available media content responsively to preference data, to display first identifiers corresponding to a subset and accept first input indicating a one of said first identifiers to be used currently or in the future and to control a delivery of media content responsively to said first input, as taught by Williams, for the advantage of allowing the system to automatically create a list of customized personalized programming.

Further, Strubbe fails to disclose the claimed wherein at least one of the identifiers identifies media content that is not currently, or scheduled to be, available. See claim 1 for obviousness.

In regard to Claim 10, the combined systems of Strubbe and Williams disclose a system as in claim 8, wherein said computer is programmed to store said data responsive to said second input (Strubbe: "like" and "dislike" stored in DB2 54; col. 5, lines 52-58) without controlling a delivery of media content— responsively thereto (Strubbe: simply stored in DB2 54 (col. 5, lines 52-58) and not used to tune or schedule).

In regard to Claim 11, the combined systems of Strubbe and Williams disclose a system as in claim 8, wherein said second identifiers include video clips (Strubbe: clips; col. 4, lines 5-7 and lines 34-36).

In regard to Claim 12, the combined systems of Strubbe and Williams disclose a system as in claim 8, wherein said second identifiers include narrative descriptions (Strubbe: DOP contains descriptions; col. 3, lines 39-42).

In regard to Claim 18, Strubbe discloses a media control device (Fig. 1, interface 5), comprising:
a controller (processor 35/CPU 50 of interface 5) connected to at least one data store (Fig. 3, volatile memory of processor 35, which contains sections of DB1 52, DB2 54, and DB3 56; col. 4, lines 56-61) holding at least preference data (DB2 54 stores preferences; col. 5, lines 52-58 and col. 6, lines 39-48) and first subset of identification data (DB1 52 contains DOP; col. 5, lines 2-7), said media content identification data identifying media content (DOP is descriptive information on programming; col. 3, lines 59-61) available through a communications channel (from head end, col. 5, lines 2-7; and available via cable; col. 3, lines 35-39);

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said controller being connectable to said communications channel to control delivery of said media content (select to view; col. 6, lines 28-32) through said communications channel (from cable);

a user interface (overlays; col. 5, lines 29-42) including a (TV 40) and an input device (remote control 42);

said controller being further programmed to control said communications channel responsively to said command to use (select to view; col. 6, lines 28-32);

said controller being further programmed to display a second portion of said identification data (display DOP record for movie (program); col. 5, lines 29-42) and accept commands through said input device to select second media content from said second portion of identification data (via "Like" and "Dislike"; col. 4, lines 8-16) without using said second media content (simply stored in DB2 54 (col. 5, lines 52-58) and not used to tune or schedule); and

said controller being programmed to modify said preference data responsively to said command to select (col. 5, lines 52-58).

Although Strubbe filters available programs according to the user's preferences, he fails to specifically utilize a controller being programmed to select

a first portion of first subset of identification data responsively to preference data, display ***said first portion of first subset of identification data***, and accept a command through an input device to use first media content from ***said first portion of first subset of identification data***, and to modify a preference data responsively to a command to use.

In analogous art, Williams teaches a controller (controller 104) being programmed to select a (first) portion of identification data responsively to preference data (list of programming suggestions; col. 11, lines 3-21), display a ***(first) portion of identification data*** (display via pop-up window; col. 11, lines 20-23), and accept a command through an input device to use (first) media content from ***said (first) portion of identification data*** (chosen program; col. 11, lines 27-30). In addition, the controller modifies a preference data responsively to a command to use (preference information is continuously updated (col. 7, line 52 – col. 8, line 2); and behavior log 624 (col. 14, lines 4-9)). This provides the advantage of allowing the system to automatically create a list of customized personalized programming (as suggested in col. 6, lines 28-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Strubbe with utilizing a controller being programmed to select a first portion of identification data responsively to preference data, display first portion of identification data, and

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accept a command through an input device to use first media content from said first portion of identification data, and to modify a preference data responsively to a command to use, as taught by Williams, for the advantage of allowing the system to automatically create a list of customized personalized programming.

Further, Strubbe fails to disclose the claimed identification data identifying media content that is not currently, or scheduled to be, available for use. See claim 1 for obviousness.

In regard to Claim 20, the combined systems of Strubbe and Williams disclose a device as in claim 18, wherein said first portion of first subset of identification data has multiple identifiers identifying a same content (Williams: list of program suggestions (col. 11, lines 3-21) does not disclose of removing any redundant programs, therefore multiple identifiers of the same content would remain in the list of program suggestions) and said second portion has only single identifiers identifying said same content (Strubbe: removes duplicate records (col. 6, line 26), therefore only a single identifier identifying the same content would remain).

In regard to Claim 21, the combined systems of Strubbe and Williams disclose a device as in claim 18, wherein said controller is programmed to accept commands to limit said second portion identification data and to limit said second

portion of identification data accordingly (Strubbe: commands indicate "like" and "dislike"; col. 5, lines 11-17). This is limiting in that Strubbe teaches recording a user's "like" or "dislike" of programming and correlates records associated therewith (col. 5, lines 54-67), which equates to the broadest interpretation of "limit said second portion identification data," as claimed.

Regarding claims 33 and 34, the combination of Strubbe and Girard fails to disclose the claimed wherein content identifiers displayed on the display are further responsive to a preference profile representative of the preferences of a plurality of users.

The Examiner takes Official Notice it would have been well known in the art to include a preference profile representative of the preferences of a plurality of users to ensure the content identifiers displayed fits the preferences of all the users in lieu of one.

3. Claims 5, 9, 19 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe, in view of Williams and Girard, in further view of Hendricks et al (5,798,785).

In regard to Claim 5, the combined systems of Strubbe, Williams and Girard disclose a system as in claim 1. However, they fail to display a list of categories of media content and to accept input indicating ones of said

categories to exclude from identifiers, and to exclude from identifiers accordingly, as claimed.

In analogous art, Hendricks teaches display a list of categories of media content (as seen in Figs. 11a – 11d; and col. 30, lines 51-64) and to accept input indicating ones of said categories (via a remote controller; col. 30, lines 61-64) to exclude from identifiers, and to exclude from identifiers accordingly (negative searching, as in example to remove X or R rated movies; col. 32, lines 10-19). This provides the advantage of automatically removing known undesirable programming from a program suggestion list (as suggested in col. 32, line 16-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams, with displaying a list of categories of media content and to accept input indicating ones of said categories to exclude from identifiers, and to exclude from identifiers accordingly, as taught by Hendricks, for the advantage of automatically removing known undesirable programming from a program suggestion list.

In regard to Claim 9, the combined systems of Strubbe and Williams disclose a system as in claim 8. However, they fail to display a list of categories

of media content and to accept input indicating ones of said categories to exclude from identifiers, and to exclude from identifiers accordingly, as claimed.

In analogous art, Hendricks teaches display a list of categories of media content (as seen in Figs. 11a – 11d; and col. 30, lines 51-64) and to accept input indicating ones of said categories (via a remote controller; col. 30, lines 61-64) to exclude from identifiers, and to exclude from identifiers accordingly (negative searching, as in example to remove X or R rated movies; col. 32, lines 10-19). This provides the advantage of automatically removing known undesirable programming from a program suggestion list (as suggested in col. 32, line 16-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams, with displaying a list of categories of media content and to accept input indicating ones of said categories to exclude from identifiers, and to exclude from identifiers accordingly, as taught by Hendricks, for the advantage of automatically removing known undesirable programming from a program suggestion list.

In regard to Claim 19, the combined systems of Strubbe and Williams disclose a device as in claim 18, wherein said controller is programmed such that said first portion of identification data (Williams: subset created; col. 11, lines 3-

23) and said second portion identification data (Strubbe: programs contain additional information, such as clips; col. 4, lines 5-7 and lines 34-36). However, they fail to display each list of identifiers and the identifiers used in the two lists are identical where they pertain to the same media content, as claimed.

In analogous art, Hendricks teaches displaying lists of identifiers (as seen in Fig. 14) and the identifiers used in the lists are identical where they pertain to the same media content (various descriptors for the selected show seen in Fig. 14 and described in col. 38, lines 24-28). This provides the advantage of allowing the subscriber to quickly view a multitude of information about a particular selected program.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams with displaying lists of identifiers and the identifiers used in the lists are identical where they pertain to the same media content, as taught by Hendricks, for the advantage of allowing the subscriber to quickly view a multitude of information about a particular selected program.

In regard to Claim 22, the combined systems of Strubbe and Williams disclose a device as in claim 21. Although Strubbe and Williams disclose a command to emphasize identification data (Strubbe: via "like" command), they

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fail to display predefined classes of media content and a command to emphasize representation in a portion of identification data of identifiers corresponding to at least one of said predefined classes of media content, as claimed.

In analogous art, Hendricks teaches displaying predefined classes of media content (as seen in Figs. 11a – 11d; and col. 30, lines 51-64). In addition, Hendricks includes a command to emphasize representation in a portion of identification data of identifiers corresponding to at least one of said predefined classes of media content (viewer selects; col. 30, lines 51-61). This provides the advantage of allowing the viewer to select specific criteria of their choice to assist in the search for suggested programming (col. 30, lines 52-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams with displaying predefined classes of media content and a command to emphasize representation in a portion of identification data of identifiers corresponding to at least one of said predefined classes of media content, as taught by Hendricks, for the advantage of selecting criteria of interest to the viewer to assist in the search for suggested programming.

In regard to Claim 23, the combined systems of Strubbe, Williams and Hendricks disclose a device as in claim 22. Although Strubbe includes a

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command to omit representation in said second portion of identification data identifiers (Strubbe: via "dislike"; col. 5, lines 11-17 and lines 54-67), they fail to omit representation in said second portion of identification data identifiers corresponding to at least one of said predefined classes, as claimed,

In analogous art, Hendricks teaches including a command to omit representation in a portion of identification data identifiers (negative searching, as in example to remove X or R rated movies; col. 32, lines 10-19). This provides the advantage of allowing the viewer to select specific criteria of their choice to assist in the search for suggested programming (col. 30, lines 52-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams with displaying predefined classes of media content, and including a command to omit representation in a portion of identification data identifiers, as taught by Hendricks, for the advantage of selecting criteria of interest to the viewer to assist in the search for suggested programming.

In regard to Claim 24, the combined systems of Strubbe and Williams disclose a device as in claim 21. However, they fail to display predefined classes of media content, and include a command to omit representation in a portion of identification data identifiers, as claimed.

In analogous art, Hendricks teaches displaying predefined classes of media content (as seen in Figs. 11a – 11d; and col. 30, lines 51-64), and includes a command to omit representation in a portion of identification data identifiers (negative searching, as in example to remove X or R rated movies; col. 32, lines 10-19). This provides the advantage of allowing the viewer to select specific criteria of their choice to assist in the search for suggested programming (col. 30, lines 52-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams with displaying predefined classes of media content, and including a command to omit representation in a portion of identification data identifiers, as taught by Hendricks, for the advantage of selecting criteria of interest to the viewer to assist in the search for suggested programming.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe et al (5,483,278), in view of Williams et al (5,945,988), in view of Girard, and in further view of Schein et al (5,959,688).

In regard to Claim 25, Strubbe discloses a method of updating a preference database (updating preferences in DB2 54; col. 6, lines 39-53) a guide, comprising the steps of:

generating a second list of programs scheduled to be available currently and in the future (DB3 56; col. 5, lines 61-67), said step of generating a second list including the step of excluding redundant entries when said redundant entries are distinguishable only by time of broadcast (remove redundancies; col. 6, line 26-32);

at a time of programming, displaying (via overlays; col. 5, lines 29-42) said second list of programs and accepting commands (register input via "like" and "dislike"; col. 5, lines 40-44) to select multiple programs (indicating "like" for several programs; col. 6, lines 46-48) from said second list and storing said multiple selections (stored in DB2 54; col. 5, lines 52-58); and

modifying said preference database responsively to said multiple selections (col. 5, lines 52-58 and lines 61-67).

Although Strubbe filters available programs according to the user's preferences, he fails to specifically generate a first list of programs currently available for viewing, said step of generating a first list including the step of

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permitting redundant entries when said entries are distinguishable only by a time of broadcast, and at a time of viewing, displaying said first list of programs, accepting commands to select at least one program from said list, and controlling a media output device to display said at least one program, and use an electronic program guide, as claimed.

In analogous art, Williams teaches generating a (first) list of programs currently available for viewing (list of suggested programs; col. 11, lines 3-21), and at a time of viewing, displaying said (first) list of programs (col. 11, lines 20-23), accepting commands to select at least one program (select via I/O device 132; col. 11, lines 23-30) from **said (first) list**, and controlling a media output device (television 102) to display said at least one program (select for viewing; col. 11, lines 27-30). In addition, Williams utilizes an electronic program guide (as seen in Figs. 7 and 8). This provides the advantage of allowing the system to automatically create a list of customized personalized programming (as suggested in col. 6, lines 28-32).

However, Williams fails to generate a list including the step of permitting redundant entries when said entries are distinguishable only by a time of broadcast, as claimed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Strubbe with generating a first list of programs currently available for viewing, and at a time of viewing, displaying said first list of programs, accepting commands to select at least one program from said list, and controlling a media output device to display said at least one-program, as taught by Williams, for the advantage of allowing the system to automatically create a list of customized personalized programming.

In analogous art, Schein teaches generating a list including the step of permitting redundant entries when said entries are distinguishable only by a time of broadcast (user may search for when a particular program is available again in the future; col. 5, lines 50-57). This provides the advantage to the user to identify a particular show in the future to set up a viewing or recording (col. 1, line 65 – col. 2, line 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and Williams with generating a list including the step of permitting redundant entries when said entries are distinguishable only by a time of broadcast, as taught by Schein, for the advantage of allowing to the user to identify a particular show in the future to set up a viewing or recording.

Strubbe fails to disclose the claimed generating a second list of programs that are not currently, or schedule to be, available. See claim 1 for obviousness.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe (5,483,278), in view of Williams (5,945,988), in view of Schein et al (5,959,688), in further view of Hendricks et al (5,798,785).

In regards to Claim 26 and 28, the combined systems of Strubbe, Williams and Schein disclose a method as in claim 25. However, they fail to display a list of program categories, accept commands referencing said program categories, and exclude programs from second list responsively to said commands referencing said program categories.

In analogous art, Hendricks teaches displaying a list of program categories (as seen in Figs. 11a – 11d; and col. 30, lines 51-64), accept commands referencing said program categories (via a remote controller; col. 30, lines 61-64), and exclude programs scheduled to be available currently and in the future responsively to said commands referencing said program categories (negative searching, as in example to remove X or R rated movies; col. 32, lines 10-19). This provides the advantage of automatically removing known undesirable programming from a program suggestion list (as suggested in col. 32, line 16-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe, Williams and Schein with displaying a list of program categories, accepting commands referencing said program categories, and excluding programs scheduled to be available currently and in the future responsively to said commands referencing said program categories, as taught by Hendricks, for the advantage of automatically removing known undesirable programming from a program suggestion list.

6. Claims 13-17, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe et al (5,483,278), in view of Hendricks et al (5,798,785), in further view of Girard et al (5,751,282).

In regard to Claim 13, Strubbe discloses a device (Fig. 1, interface 5) for adding preference data (via "Like" and "Dislike"; col.5, lines 12-17 and col. 6, lines 46-52) to a system having a preference database (Fig. 3, DB2 54), comprising:

a controller (Fig.1, interface 5) with a program database (DB1 52; Fig. 3) containing program identifiers identifying programs (DOP record; col. 5, lines 29-42);

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said controller being programmed to generate a user interface element (via overlays; col. 2, lines 63-67 and col. 5, lines 29-42) that displays displayed identifiers including at least a subset of said stored program identifiers (col. 5, lines 29-42) and accepts user input indicating multiple selections from among said displayed identifiers (indicating "like" for several; col. 5, lines 11-17 and col. 6, lines 46-48);

and a data control element (Fig. 1, processor 35 of interface 5) that stores data responsive to said multiple selections in said preference database (DB2 54; col. 5, lines 52-58 and col. 6, lines 46-48).

Although Strubbe utilizes past preferences to derive suggestions (past history; col. 6, lines 56-59), he fails to derive preference data, at least in part, from program selections of a user, to utilize an EPG system, and to utilize program identifiers identifying programs where at least some of whose content is not currently, or scheduled to be, available for use, as claimed.

In analogous art, Hendricks teaches deriving preference data, at least in part, from program selections of a user (via often watched programs (col. 33, lines 35-49) and habit tracking (col. 13, lines 57-61)). In addition, Hendricks uses

an EPG system (as seen in Fig. 14). These provide the advantage of allowing the controller to automatically "learn" preferred programming.

However, Hendricks fails to utilize program identifiers identifying programs where at least some of whose content is not currently, or scheduled to be, available for use, as claimed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system Strubbe with deriving preference data, at least in part, from program selections of a user, and utilizing an EPG system as taught by Hendricks, for the advantage of allowing the controller to automatically "learn" preferred programming.

In analogous art, Girard teaches program identifiers identifying programs where at least some of whose content is not currently, or scheduled to be, available for use (programming guide 40 displays past programming; col. 4, lines 9-18). This provides the advantage of allowing a subscriber to retrieve a program of interest that is no longer currently available on live broadcasting (col. 2, lines 30-36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe and

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Hendricks with generating a list of programs that were scheduled to be available in the past, as taught by Girard, for the advantage of allowing a subscriber to retrieve a program of interest that is no longer currently available on live broadcasting.

In regard to Claim 14, the combined systems of Strubbe, Hendricks and Girard disclose a device as in claim 13. However, they fail to use a user input indicating multiple selections that indicates more than one selection from a single instance of displaying through a user-interface, whereby said user is able to select multiple identifiers without changing a display of the user interface, as claimed.

Hendricks, though, further teaches using a user input indicating multiple selections that indicates more than one selection from a single instance of displaying through a user-interface (via selecting multiple moods (categories) on the user-interface; col. 30, line 65 – col. 31, line 17), whereby said user is able to select multiple identifiers without changing a display of the user interface (use can select one or more moods (category); col. 31, lines 8-13). This provides the advantage of allowing the user to quickly scroll through categories indicated their personal preferences.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Strubbe, Hendricks and Girard with to using a user input indicating multiple selections that indicates more than one selection from a single instance of displaying through a user-interface, whereby said user is able to select multiple identifiers without changing a display of the user interface, as further taught by Hendricks, for the advantage of allowing the user to quickly scroll through categories indicated their personal preferences.

In regard to Claim 15, the combined systems of Strubbe, Hendricks and Girard disclose a device as in claim 13, wherein said EPG system controls a media transmission channel responsively to said preference data stored in said preference database (Strubbe: select program to view; col. 6, lines 26-32).

In regard to Claim 16, the combined systems of Strubbe, Hendricks and Girard disclose a device as in claim 13, wherein said controller is programmed to eliminate redundant program identifiers, where [said] respective programs identified by said redundant **program** identifiers are distinguishable only by a time of broadcast (Strubbe: col. 6, lines 26-32).

In regard to Claim 17, the combined systems of Strubbe, Hendricks and Girard disclose a device as in claim 13, wherein said controller is further

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programmed such that said multiple selections indicate specific preferred uses of program material including at least one of: recording, viewing, and preventing an ability to view (Hendricks: negative searching (preventing), as in example to remove X or R rated movies; col. 32, lines 10-19).

In regard to Claim 29, Strubbe discloses a method of updating a preference database (updating preferences in DB2 54; col. 6, lines 39-53) used by a guide to modify listings of currently available programming (DB3 56; col. 5, lines 61-67 and col. 6, lines 26-32), comprising the steps of:

generating a list of programs scheduled to be available currently and in the future (DB1 52; col. 3, lines 38-42 and col. 5, lines 2-7);

excluding from said list redundant entries when said redundant entries are distinguishable only by time of broadcast (col. 6, lines 26-28);

at a time of programming, displaying a [said] second list of programs (DB3 creates a personalized list; col. 5, lines 61-67 and col. 6, lines 26-32) and accepting commands (via "Like" and "Dislike"; col. 4, lines 8-16) to select multiple programs (indicate "like" for several programs; col. 6, lines 46-49) from said second list and storing said multiple selections (DB2 54; col. 5, lines 52-58); and

modifying said preference database responsively to said multiple selections without controlling an output of any of said programs identified in said multiple selections (simply stored in DB2 54 (col. 5, lines 52-58) and not used to tune or schedule).

However, Strubbe fails to specifically utilize an electronic program guide, display a list of program categories, generate a list of programs scheduled to be available in the past, accept commands referencing program categories, and modify a list responsively to commands referencing program categories, as claimed.

In analogous art, Hendricks uses an electronic program guide (as seen in Fig. 14), displays a list of program categories (as seen in Figs. 11a – 11d; and col. 30, lines 51-64), accept commands referencing program categories (via a remote controller; col. 30, lines 61-64), and modify a list responsively to commands referencing program categories (uses categories to further filter; col. 30, lines 51-64). This provides the advantage of providing a subscriber the ability to filter a guide by categories.

However, Hendricks fails to generate a list of programs scheduled to be available in the past, as claimed.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Strubbe with utilizing an electronic program guide, displaying a list of program categories, accepting commands referencing program categories, and modifying a list responsively to commands referencing program categories, as taught by Hendricks, for the advantage of providing a subscriber the ability to filter a guide by categories.

In analogous art, Girard teaches generating a list of programs scheduled to be available in the past (programming guide 40 displays past programming; col. 4, lines 9-18) which are not currently available, or scheduled not to be. See claim 1 for obviousness.

In regard to Claim 30, the combined systems of Strubbe, Hendricks and Girard disclose a method as in claim 29, wherein:
said step of accepting commands referencing said program categories includes accepting a command to emphasize programs in a selected category (Hendricks: user may select desired; col. 30, lines 57-61); and

said step of modifying said list includes increasing representation in said list of programs in said selected category (Hendricks: filtering creates more selective desired criteria; col. 30, lines 57-61).

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Claims 31 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe et al (5,483,278) in view of Girard.

In regard to Claim 31, Strubbe discloses a computer (Fig. 1, interface 5) user interface (via overlays; col. 5, lines 29-42) for generating media content selections to serve as examples of desired selections for use in generating and refining user preference profiles stored in a database (col. 5, lines 29-67), the computer user interface comprising:

a controller (Fig. 1, interface 5) with a display (TV 40) and an input (remote control 42) connected to receive program selection identifiers (via "Like" and "Dislike" on remote 42; col. 4, lines 8-16);

said controller being programmed to:

receive media content data from a data source (DOP data received to DB1 52 from headend; col. 5, line 2-7);

display, on said display (on TV 40; col. 4, lines 27-30), content identifiers (display DOP records from DB1; col. 5, lines 29-42) of said media content responsive to said media content;

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at a time of inputting, receive inputs from a user indicating ones of said identifiers corresponding to content the user prefers to use (via "Like" and "Dislike" on remote 42; col. 4, lines 8-16); said inputs not necessarily indicating content said user will use, but content to serve as an example for purposes of building a user-preference profile (simply stored in DB2 54 (col. 5, lines 52-58) and not used to tune or schedule); and

transmit said inputs to said database (DB2 located at the headend, thus requiring the input preferences transmitted to the DB2 database from the subscriber; col. 6, lines 63-67).

Strubbe fails to disclose the claimed wherein at least one of the identifiers identifies media content that is not currently, or scheduled to be, available for use. Girard teaches past programming available for use (programming guide 40 displays past programming; col. 4, lines 9-18). This provides the advantage of allowing a subscriber to retrieve a program of interest that is no longer currently available on live broadcasting (col. 2, lines 30-36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Strubbe with generating a list of programs that were scheduled to be available in the past, as taught by Girard, for

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the advantage of allowing a subscriber to retrieve a program of interest that is no longer currently available on live broadcasting.

Regarding claim 32, the combination of Strubbe and Girard fails to disclose the claimed wherein content identifiers displayed on the display are further responsive to a preference profile representative of the preferences of a plurality of users.

The Examiner takes Official Notice it would have been well known in the art to include a preference profile representative of the preferences of a plurality of users to ensure the content identifiers displayed fits the preferences of all the users in lieu of one.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Strubbe (5,223,924) is the grandparent patent of Strubbe (5,483,278).

Strubbe '924 discloses creating a database based on the correlation of preferences to available program information (Abstract).

Gilboy (5,465,113) discloses of utilizing programming listings applied to a viewer's programming preferences (Abstract). In addition, Gilboy discloses using categories and "like" lists (see Figs. 13c – 13E), and updating a user's personal lists (see Fig. 8 and col. 6, lines 40-65).


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava telephone number is (703) 305-4038. The examiner can normally be reached on Monday through Friday 9am –6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VS 8/21/04



VIVEK SRIVASTAVA
PRIMARY EXAMINER